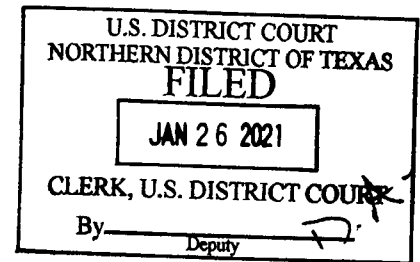


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION



CHRYSTOPHER DON PRECIADO,

Petitioner,

v.

LORIE DAVIS, Director, Texas  
Department of Criminal Justice,  
Correctional Institutions Division,

Respondent.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

2:18-CV-057-Z

**ORDER OVERRULING OBJECTIONS,  
ADOPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION,  
AND  
DENYING PETITION FOR A WRIT OF HABEAS CORPUS**

Before the Court are the findings, conclusions, and recommendation of the United States Magistrate Judge to deny the Petition for a Writ of Habeas Corpus filed by petitioner in this case. (ECF No. 34). On January 22, 2021, petitioner filed objections to the findings, conclusions, and recommendation. (ECF No. 37). After making an independent review of the pleadings, files, and records in this case, as well as petitioner's objections, the Court concludes that the findings and conclusions of the Magistrate Judge are correct. It is therefore ORDERED that petitioner's objections are OVERRULED, the findings, conclusions, and recommendation of the Magistrate Judge are ADOPTED, and the Petition for a Writ of Habeas Corpus is DENIED.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, and 28 U.S.C. § 2253(c), the Court denies a certificate of appealability because petitioner has failed to make "a substantial showing of the denial of a constitutional right." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also Hernandez v. Thaler*, 630 F.3d 420, 424 (5<sup>th</sup> Cir. 2011). The Court

ADOPTS and incorporates by reference the Magistrate Judge's findings, conclusions, and recommendation filed in this case in support of its finding that petitioner has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Slack*, 529 U.S. at 484.

Plaintiff filed an appeal to the Fifth Circuit Court of Appeals before entry of a final judgment. ECF No. 39. An interlocutory appeal of this nature (likely to be dismissed on jurisdictional grounds by the appellate court) fails to challenge *this* final order and judgment of the Court. If petitioner files a notice of appeal, he may proceed *in forma pauperis* on appeal. *See* ECF No. 5; Federal Rule of Appellate Procedure 24(a)(3).

**SO ORDERED.**

January 26, 2021.



---

MATTHEW J. KACSMARYK  
UNITED STATES DISTRICT JUDGE